CALIFORNIA MEDICAL ASSISTANCE COMMISSION
770 L STREET, SUITE 1000
SACRAMENTO, CA 95814
(916) 324-2726
(916) 324-5597 FAX
http://www.cmac.ca.gov

CALIFORNIA MEDICAL ASSISTANCE COMMISSION

State Capitol, Room 113
Sacramento, CA

Minutes of Meeting
May 22, 2008

COMMISSIONERS PRESENT
Cathie Bennett Warner, Chair
Michele Burton, M.P.H.
Wilma Chan
Marvin Kropke
Vicki Marti
Nancy McFadden

COMMISSIONERS ABSENT

CMAC STAFF PRESENT
J. Keith Berger, Executive Director
Tacia Carroll
Paul Cerles
Denise DeTrano
Holland Golec
Mark Kloberdanz
Katie Knudson
Jenny Morgan
Becky Swol
Mervin Tamai
Karen Thalhammer

EX-OFFICIO MEMBERS PRESENT
Cathy Halverson, Department of Health Care Services
John Fitzpatrick II, Department of Finance

EX-OFFICIO MEMBERS ABSENT

I. Call to Order

The May 22, 2008 open session meeting of the California Medical Assistance Commission (CMAC) was called to order by Chair Cathie Bennett Warner. A quorum was present.

II. Approval of Minutes

The May 8, 2008 meeting minutes were approved as prepared by CMAC staff.

III. Executive Director's Report

Keith Berger, Executive Director, began his report by noting that there is a full agenda at today's meeting, so he would keep his comments brief.

Regarding the Governor's May Revise, Mr. Berger said that the document was released last week and that the Departments of Finance and Health Care Services have graciously agreed to provide an overview of the key Medi-Cal issues that are part of that budget update at today's meeting.

Mr. Berger reminded the Commissioners that the next CMAC meeting will be on June 12, 2008, which is three weeks from today rather than the usual two weeks. He noted that it does happen a few times each year.

Mr. Berger informed the Commissioners that there are 15 hospital contracts and amendments before them for review and action in closed session as well as a number of updates and several extended discussions regarding current hospital and managed care negotiations.

IV. Department of Health Care Services (DHCS) Report

Cathy Halverson, DHCS, and John Fitzpatrick II, Department of Finance (DOF), provided a brief overview of the Medi-Cal May Revise. Mr. Fitzpatrick went first.

John Fitzpatrick indicated that the revised Medi-Cal expenditures for FY 2007-08 are still estimated to be $37 billion total, $14.1 billion General Fund, which is only $6.6 million more than the Governor's Budget. He noted that this is about $35 million below the appropriation.

Mr. Fitzpatrick informed CMAC that the May Revise includes $36 billion, $13.9 billion General Fund), for FY 2008-09 an increase of $315.7 million General Fund from the Governor's Budget due primarily to the erosion of budget balancing and reduction (BBR) savings and 2008-09 rate adjustments for managed care plans. CMAC was impacted due to Geographic Managed Care (GMC) activities.

Mr. Fitzpatrick said that the average monthly caseload is still forecast to be 6.6 million people in 2008-09, which is an increase of approximately 22,900 people, or 0.3 percent compared to the Governor's Budget.

Mr. Fitzpatrick stated that BBRs from the Governor's Budget that have not been enacted have not been withdrawn. There was a 10 percent reduction in rates paid to the Medi-Cal providers that was approved by the Legislature during Special Session. He noted that several eligibility changes have been proposed to offset the impact of the increased expenditures identified in the May Revise that would result in an estimated $160 million General Fund savings in the budget year 2008-09.

Regarding a couple issues that specifically impact CMAC, Mr. Fitzpatrick said that $9 million General Fund is being requested to repay the federal government for the disallowance of the Fresno County Intergovernmental Transfer (IGT).

Mr. Fitzpatrick also noted that there is a decrease of roughly $11.2 million General Fund for reduced rates for non-contract hospitals. Rates for non-contract entities would be paid the lower of the average regional CMAC rate minus five percent or the hospital's interim rate minus ten percent (which is already current law) to provide an incentive for hospitals to participate in the Selective Provider Contracting Program (SPCP).

In response to a question asked by Commissioner Chan, Mr. Fitzpatrick commented that the Governor's budget proposal to delay several Medi-Cal provider payments was aimed to address the State's cash flow shortage. In the Legislature's Special Session a proposal was enacted that delays payments to Medi-Cal fee-for service providers and managed care plans by one month beginning in August when the State's revenue is much lower. He noted that this delay will not impact expenditure levels.

Cathy Halverson made copies available to CMAC as well as the public on two sections of the DHCS proposed May Revision trailer bill language. She explained that there are two proposals; the first being to reduce fee-for service non-contracting hospital rates and the other relates to establishing payment rates for hospitals that do not contract with Medi-Cal Managed Care plans.

Ms. Halverson noted that the first proposal provides that DHCS would be paying the lesser of either 90 percent of the hospital's cost or the CMAC average non-tertiary or statewide tertiary regional rate, minus five percent, except for rural hospitals, which will be paid 90 percent of cost as specified in current law.

The second proposal, Ms. Halverson continued, defines what Medi-Cal Managed Care plans should pay for services provided at hospitals that do not contract with them. She noted that for emergency services, non-contracting (out of network) hospitals would be paid the same CMAC average regional non-tertiary or statewide tertiary rate as proposed for non-SPCP hospitals, but without the five percent reduction as required by federal law in The Rogers amendment. But for post-stabilization and other non-emergency services, non-contracting (out of network) hospitals would be paid the lesser of 90 percent of cost or the CMAC average regional non-tertiary, or statewide tertiary rate, minus five percent.

Ms. Halverson explained that the purpose of this new language is to attempt to encourage hospitals to contract with CMAC and Medi-Cal Managed Care plans to provide more access to hospital services to Medi-Cal beneficiaries.

Please see the attached trailer bill language for more information.

Ms. Halverson informed CMAC that seven out of ten counties participating in local programs through the 2005 Health Coverage Initiative, have finalized contracts. She noted that the three remaining contracts will be finalized soon. In March, Ms. Halverson informed CMAC that 39, 500 people had been enrolled, but there were 41, 000 applications pending due to citizenship documentation requirements. As of April, 48,000 people have been enrolled.

V. New Business/Public Comments/Adjournment

Michael Arnold, representing the California Children's Hospital Association (CCHA), indicated that the proposed rates that Medi-Cal Managed Care Plans would pay to hospitals not contracting with the plans would hurt children's hospitals as their rates are generally higher and are more difficult to negotiate.

There being no further new business and no other comments from the public, Chair Bennett Warner recessed the open session. Chair Bennett Warner opened the closed session, and after closed session items were addressed, adjourned the closed session, at which time the Commission reconvened in open session. Chair Bennett Warner announced that the Commission had taken action on hospital contracts and amendments in closed session. The open session was then adjourned.

#383 Reduce Non-Contract Hospital Rates for Medi-Cal Managed Care Plan to Same Level Rate

DHCS Proposed May Revision TBL

Medi-Cal Managed Care Cost Savings
Version: 5-10-08

Article 2.93 (commencing with Section 14091.3) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code to read:

Article 2.93 Payments to Hospitals

14091.3 (a) For purposes of this section, the following definitions shall apply:

(1) "Medi-Cal managed care plan contracts" means those contracts entered into with the department by any individual, organization, or entity pursuant to Article 2.7 (commencing with section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.91 (commencing with Section 14089) of Chapter 7, Article 1 (commencing with Section 14200), or Article 7 (commencing with Section 14490) of Chapter 8.

(2) "Medi-Cal managed care health plan" means an individual, organization or entity operating under a Medi-Cal managed care plan contract with the department under this Chapter or Chapter 8 (commencing with Section 14200).

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, administer, interpret or make specific this section and any applicable federal waivers or state plan amendments by means of all county letters, all plan letters, plan or provider bulletins, or similar instructions. Thereafter, the department may, within 24 months of the date that this section becomes effective, adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The department shall take all appropriate steps to amend the Medicaid State plan, if necessary, to carry out this section and obtain any federal waivers necessary to allow for federal financial participation. This section shall be implemented only to the extent that federal financial participation is available.

(d) Any hospital that does not have in effect a contract with a Medi-Cal managed care health plan that establishes payment amounts for services furnished to a beneficiary enrolled in that plan shall accept as payment in full the following amounts:

(1) For outpatient services, the Medi-Cal Fee-For-Service (FFS) payment amounts;

(2) For non-emergency inpatient services, and post-stabilization services following an emergency or non-emergency stay, the Medi-Cal Fee-For-Service (FFS) payment amounts established in Section 14166.245, subdivision (b). For purposes of this paragraph, the Medi-Cal FFS payment amounts for all hospital inpatient services, including services provided by hospitals that contract with the department under the Medi-Cal Selective Provider Contracting Program (Welfare and Institutions Code Section 14081 et. seq.), shall be the State's inpatient services payment amount as established in Section 14166.245, subdivision (b).

(3) For emergency inpatient services, the average per diem contract rate specified in Section 14166.245(b)(2), except that the payment amount shall not be reduced by 5 percent. For the purposes of this paragraph, this payment amount shall apply to all hospitals, including hospitals that contract with the department under the Medi-Cal Selective Provider Contracting Program (Welfare and Institutions Code Section 14081 et. seq.) and small and rural hospitals specified in Section 124840 of the Health and Safety Code.

(e) Medi-Cal managed care health plans that have, pursuant to the department's encouragement in All Plan Letter 07003, been paying out-of-network hospitals the most recent average California Medical Assistance Commission regional average per diem rate as a temporary rate for purposes of Section 1932(b)(2)(D) of the Social Security Act (SSA), effective January 1, 2007, shall make reconciliations and adjustments for all hospital payments made since January 1, 2007 based upon rates published by the department pursuant to subsection (b) and effective January 1, 2007 through June 30, 2008, and, if applicable, provide supplemental payments to hospitals as necessary to make payments that conform with Section 1932(b)(2)(D) of the SSA.

(f) For the purposes of this section, a tertiary hospital is as defined in 14166.245, subparagraph (B) of paragraph (2) of subdivision (b).

#384 Reduce Non-Contract Hospital Rates to Regional CMAC Rate less Five Percent

DRAFT: 5/7/08, 1705

DHCS Proposed May Revision TBL

Reduce Non-Contracted Hospital Rates to Regional CMAC minus 5%

SECTION _____. Section 14166.245 of the Welfare and Institutions Code is amended, to read:

14166.245. (a) The Legislature finds and declares that the state faces a fiscal crisis that requires unprecedented measures to be taken to reduce General Fund expenditures to avoid reducing vital government services necessary for the protection of the health, safety, and welfare of the citizens of the State of California.

(b)(1) Notwithstanding any other provision of law, except as provided in Section 14091.3, for ~~acute care~~ hospitals that receive Medi-Cal reimbursement from the State Department of Health Care Services and are not under contract with the State Department of Health Care Services pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9, the amounts paid as interim payments for inpatient hospital services provided on and after July 1, 2008, shall be reduced by 10 percent.

(2) Beginning on October 1, 2008, amounts paid that are calculated pursuant to paragraph (1) shall not exceed the applicable average per diem contract rate established as specified in subparagraph (A), reduced by 5 percent, multiplied by the number of Medi-Cal covered inpatient days for which the interim payment is being made. This paragraph shall not apply to small and rural hospitals specified in Section 124840 of the Health and Safety Code. For purposes of this subdivision and subdivision (c), the following shall apply:

(A) The average per diem contract rates shall be derived from publicly available, unweighted average contract per diem rates, trended forward based on the trends in the California Medical Assistance Commission's Annual Report to the Legislature. For tertiary hospitals, a statewide average rate shall be determined. For all other hospitals, the regional average per diem contract rates shall be based on the geographic regions in the California Medical Assistance Commission's Annual Report to the Legislature. The applicable average per diem contract rates for tertiary hospitals and for all other hospitals shall be published by

the department on or before October 1, 2008, and such rates shall be updated annually for each state fiscal year and shall become effective each July 1, thereafter. Supplemental payments shall not be included in this calculation.

(B) For the purposes of this section, a tertiary hospital is a children's hospital specified in Section 10727, or a hospital that has been designated as a Level I or Level II trauma center by the Emergency Medical Services Authority established pursuant to Section 1797.1 of the Health and Safety Code.

(c)(1) Notwithstanding any other provision of law, for ~~acute care~~ all hospitals that receive Medi-Cal reimbursement from the State Department of Health Care Services and are not under contract with the State Department of Health Care Services, pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 3 of Division 9, the reimbursement amount paid by the department for inpatient services provided to Medi-Cal recipients for dates of service on and after July 1, 2008, shall not exceed the amount determined pursuant to paragraph (3).

(2) For purposes of this subdivision, the reimbursement for inpatient services includes the amounts paid for all categories of inpatient services allowable by Medi-Cal. The reimbursement includes the amounts paid for routine services, together with all related ancillary services.

(3) When calculating a hospital's cost report settlement for a hospital's fiscal period that includes any dates of service on and after July 1, 2008, the settlement for dates of service on and after July 1, 2008, shall be limited to the lesser of the following:

(A) ~~90~~ Ninety percent of the hospital's audited allowable cost per day for those services multiplied by the number of Medi-Cal covered inpatient days in the hospital's fiscal year on or after July 1, 2008.

(B) Beginning for dates of service on and after October 1, 2008, the applicable average per diem contract rate, established as specified in subparagraph (A) of paragraph (2) of subdivision (b), reduced by 5 percent, multiplied by the number of Medi-Cal covered inpatient days in the hospital's fiscal year, or portion thereof. This subparagraph shall not apply to small and rural hospitals specified in Section 124840 of the Health and Safety Code.

(d) Except as otherwise provided in Section 14091.3, ~~H~~ hospitals that participate in the Selective Provider Contracting Program pursuant to Article 2.6

(commencing with Section 14081) and designated public hospitals under Section 14166.1, except Los Angeles County Martin Luther King, Jr./Charles R. Drew Medical Center and Tuolumne General Hospital, shall be exempt from the ~~10 percent reduction~~ limitations required by this section.

(e) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement ~~subdivision (b)~~ and administer this section by means of ~~a~~ provider bulletins, or other similar instructions, without taking regulatory action.

(f) The director shall promptly seek all necessary federal approvals in order to implement this section, including necessary amendments to the state plan.